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Remarks:

Regarding the amendments to the claims:

Kindly enter the amendments to the claims indicated above; it is believed that the presently presented amended claims are all directed to allowable subject matter, and consequently all the claims are in condition for allowance.

Regarding the rejection of claims 1-3, 5, 7-9, 11, and 13-15 under 35 USC 102 (e) in view of the US 6524624 to Morelli:

The applicant respectfully traverses the rejection of the foregoing claims in view of the Morelli reference.

In the currently presented claims, the applicant now requires that there be present a specific minimum amount of a surfactant which causes thickening of the resultant mixed composition, *and* further that a color change occurs within 5 minutes or less, (or in 2 minutes or less as per newly presented dependent claim 20) upon mixing of the first precursor composition and the second precursor composition. Support for this claim limitation is found in the applicant's specification as filed.

With regard to the Morelli reference, although Morelli indicates that a wide range of an alpha olefin sulfonate may be present in his composition, Morelli fails to teach, suggest or most crucially, to demonstrate that *both* an appreciable change in thickening with respect to the original viscosity of a first precursor composition, and with respect to the second precursor composition would occur when the two precursor compositions were mixed to form a final mixture, *and* that a change in appearance would occur within 5 minutes or less. Morelli is wholly silent as to such compositions, and the applicant contends that this is a critical point which fully and fairly distinguishes Morelli from the currently claimed invention. Morelli provides no teaching, or motivation in order to select specific systems of constituents, wherein a surprising increase in thickening results as compared to the viscosity of the separate precursor compositions concurrently with a rapid change in the appearance of the composition from its initial 'as-mixed' appearance

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to a 'post-mixed' appearance at a time interval of 5 minutes or less, or 2 minutes or less. With regard to any alleged teaching provided by Morelli, a review of his Examples 1 – 7 compositions provided by Morelli actually only provide a teaching wherein the amount of the alpha olefin sulfonate which is ultimately present in the Morelli mixtures is at most 0.5%wt., and typically is present in amounts of only of at most about 0.27%wt. Such are amounts which are about half, but usually less than the minimum amount of the applicant's claimed surfactant which provides thickening properties. Additionally while Morelli discusses color longevity of certain of his compositions, as it recited therein the dyes used by Morelli are intended to retain their initial appearance over the course of several hours. For example, Morelli notes in his "Example 2" in col. 9 that:

FIG. 1 is a graph presenting the results of this comparison, with the first and second parts having been combined at time=0 hours. As shown in FIG. 1, the color loss for the disinfecting compositions that contained a surfactant other than alpha olefin sulfonate, and for the nil control, was significantly faster compared to the disinfecting composition of Example 2. In this experiment, 50% color loss occurred at about 2.5 hours for the nil control and comparative surfactants, while 50% color loss for the disinfectant composition of this invention occurred at about 5 hours or twice that of the comparative compositions.

Morelli's compositions would not then demonstrate any perceptible change in appearance, or color change in the short interval of 5 minutes or less, or 2 minutes or less.

Morelli also notes with respect to his "Example 3" at column 9 that:

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FIG. 1 is a graph presenting the results of this comparison, with the first and second parts having been combined at time=0 hours. As shown in FIG. 1, the color loss for the disinfecting compositions that contained a surfactant other than alpha olefin sulfonate, and for the nil control, was significantly faster compared to the disinfecting composition of Example 2. In this experiment, 50% color loss occurred at about 2.5 hours for the nil control and comparative surfactants, while 50% color loss for the disinfectant composition of this invention occurred at about 5 hours or twice that of the comparative compositions.

This passage again demonstrates that the Morelli's compositions are those which exhibit no appreciable color change in time intervals of less than several hours. Clearly then, Morelli's alleged teaching is one which is directed to demonstrating color longevity, a technical effect which is opposite to that taught by the present applicant and now claimed. Additionally as noted above, Morelli's compositions are wholly silent as to providing selected constituents in systems of constituents which comprise two parts which prior to mixing individually exhibit very low viscosities, but subsequent to mixing may provide a substantial increase in viscosity. (E.g., see applicant's "Example 1", wherein the viscosity of the first "Liquid A" was 5 cps, that of the second "Liquid B" was 4 cps, but on admixture attained a viscosity of 774 cps.)

Accordingly, reconsideration of the propriety of the outstanding rejection, and its withdrawal is respectfully requested.

Regarding the rejection of claims 1-5, 7-15, and 17-19 under 35 USC 103(a) in view of the US 6524624 to Morelli:

The applicant respectfully traverses the rejection of the foregoing claims in view of the Morelli reference. For the sake of brevity, the applicant herein repeats and incorporates by reference their remarks made *supra*, with regard to the Morelli reference as being equally relevant to the present rejection lodged under 35 USC 103(a). Again, Morelli fails to suggest compositions which demonstrate that *both* an appreciable change in thickening with respect to the original viscosity of a first precursor composition, and

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with respect to the second precursor composition would occur when the two precursor compositions were mixed to form a final mixture, *and* that a change in appearance would occur within 5 minutes or less. Such compositions are not taught or suggested by Morelli, who fails to suggest thickening coupled with changes in appearance which occur in 5 minutes or less, or 2 minutes or less following the initial admixing of the two precursor compositions. Morelli, directed to providing light fast compositions can be fairly viewed as "teaching away". The Office is not permitted to overlook such a "teaching away" in the prior art but must consider the reference as a whole.

"The relevant portions of a reference include not only those teachings which would suggest particular aspects of an invention to one having ordinary skill in the art, but also those teachings which would lead such a person away from the claimed invention. [...] The board's approach amounts, in substance, to nothing more than a hindsight 'reconstruction' of the claimed invention by relying on isolated teachings of the prior art without considering the overall context within which those teachings are presented. Without the benefit of appellant's disclosure, a person having ordinary skill in the art would not know what portions of the disclosure of the reference to consider and what portions to disregard as irrelevant."

In re Mercier 185 USPQ 774, 778 (CCPA, 1975)

It can be fairly stated then even the Examiner's attempt to produce Applicants' claimed invention from the assorted bits-and-pieces gleaned by the Examiner from the Morelli reference utilizing hindsight reconstruction fails as Morelli teaches "color longevity" which is measured on the order of hours, and not rapid changes in appearance which occur within the span of a few minutes. The Examiner is respectfully reminded that hindsight reconstruction is impermissible under the law. See W.L. Gore & Associates, Inc. v. Garlock, Inc. 220 USPQ 303 (CAFC, 1983); In re Mercier 185 USPQ 774, 778 (CCPA, 1975); In re Geiger 2 USPQ2d 1276 (CAFC, 1987)

Again, in view of the claim amendments and rebuttal remarks, reconsideration of the propriety of the present rejection, and its withdrawal is respectfully requested.

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Regarding the rejection of claims 1-5, 11, and 13-15 under 35 USC 103(a) in view of the WO 98/57544 to Harrison:

The applicant respectfully traverses the rejection of the foregoing claims in view of the Harrison reference.

With respect to the Harrison document, the applicants have amended the claims to incorporate the limitations of prior claim 7 which the Examiner has indicated as being directed to allowable, into the subject matter of the independent claims, which is thus believed to render all of the claims allowable.

Accordingly, reconsideration of the propriety of that rejection, and its withdrawal is respectfully requested.

Regarding the rejection of claims 1-5, 11, and 13-15 under 35 USC 103(a) in view of the US 6663902 to Hei:

The applicant respectfully traverses the rejection of the foregoing claims in view of the Hei reference.

With respect to the Hei document, the applicants have amended the claims to incorporate the limitations of prior claim 7, now canceled but which the Examiner has indicated as being directed to allowable, into the subject matter of the independent claims, which is thus believed to now render all of the claims allowable.

Accordingly, reconsideration of the propriety of that rejection, and its withdrawal is respectfully requested.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application,

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they are invited to call the undersigned at their earliest convenience. The early issuance of a *Notice of Allowability* is solicited.

PETITION FOR A ONE-MONTH EXTENSION OF TIME

The applicants respectfully petition for a one-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this petition.

CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;


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03 March 2008
Date:

Certification of Telefax Transmission:

I hereby certify that this paper is being telefax transmitted to the US Patent and Trademark Office to telefax number: 571 273-8300 on the date shown below:


Andrew N. Parfomak

03 March 2008
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